

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**ALEX BARR,**

**Plaintiff,**

**V.**

**GIVEFFECT, INC.,**

**Defendant.**

**1:20-cv-02364-SDG-RDC  
(N. DIST. OF GA)**

**PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE FOR  
NON-APPEARANCE OF ANISA MIRZA**

COMES NOW Plaintiff, Alex Barr, by and through undersigned counsel, and submits this Motion for Order to Show Cause for Non-Appearance of Anisa Mirza. In support of his Motion, Plaintiff states as follows:

1. This case is filed in the United States District Court for the Northern District of Georgia where venue is proper. Case caption is 1:20-cv-02364.
2. The last Motion and Order extending discovery in this case were in part to allow Plaintiff time to question Anisa Mirza, one of two individuals who made the decision to terminate Plaintiff.
3. Ms. Mirza is no longer employed by Defendant and was non-responsive to both Plaintiff and Defendant's requests for her to communicate voluntarily.

4. After the second discovery extension was granted, Plaintiff located and was able to perfect service upon Ms. Mirza. *Exhibit 1*.
5. Ms. Mirza requested her deposition be rescheduled from the date on the subpoena due to a family medical issue. Plaintiff granted Ms. Mirza's request.
6. Since that request was granted, Ms. Mirza's contact with Plaintiff began waning. Ms. Mirza at first stated she could speak on August 12, one day after discovery closed on August 11. When Plaintiff informed Ms. Mirza that she would need to pick a date of August 11 or sooner, Ms. Mirza did not respond for two weeks. After Plaintiff extended the deadline for discovery a third time, Ms. Mirza responded to Plaintiff with a proposed date of September 5, but did not provide a start time and did not respond to requests for one.
7. Plaintiff eventually informed Ms. Mirza that he would be setting a deposition for September 8, 2022, starting at 9:00AM EDT. *Exhibit 2*. In an abundance of caution, Plaintiff attempted to have the updated subpoena served on Ms. Mirza. Ms. Mirza avoided service. *Exhibit 3*. On September 8, Ms. Mirza failed to attend her deposition. *Exhibit 4*.
8. Plaintiff has no desire in this circumstance to do anything more than ensure

he is provided an opportunity to depose Ms. Mirza. To that end, rather than seek a contempt ruling, Plaintiff instead moved for the District Court in Georgia to issue Ms. Mirza a Show Cause Order requiring her to either explain why she should not be held in contempt for failure to appear, or alternatively to purge herself of any contempt charge by appearing and testifying at a deposition. [Doc. 45].

9. Judge Cannon ruled that an order granting the Motion from the Northern District of Georgia would be inappropriate and that an order should be issued from the Southern District of Florida, which would ultimately have jurisdiction to hold Ms. Mirza in contempt. [Doc. 47].
10. Plaintiff now comes to the Southern District of Florida with this Motion requesting that Ms. Mirza be issued a Show Cause Order requiring her to either explain why she should not be held in contempt for failure to appear, or alternatively to purge herself of any contempt charge by appearing and testifying at a deposition.
11. Plaintiff will place a possible date and time for said deposition in his proposed order but is flexible. Plaintiff will also seek as is necessary in this situation an extension to the current discovery deadline only for purposes of deposing Ms. Mirza.

Respectfully submitted November 15, 2022.

The Kirby G. Smith Law Firm, LLC

s/Kirby G. Smith

Kirby G. Smith

Georgia Bar No. 250119

Attorney for Plaintiff

4488 North Shallowford Road; Suite 105

Atlanta, GA 30338

Telephone: (844) 454-7529

Facsimile: (877) 352-6253

Email: [kgs@kirbygsmith.com](mailto:kgs@kirbygsmith.com)

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**ALEX BARR,**

**Plaintiff,**

**V.**

**GIVEFFECT, INC.,**

**Defendant.**

**1:20-cv-02364-SDG-RDC**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that Plaintiff's counsel served Defendant with this MOTION pursuant to FRCP 4.

Respectfully submitted November 15, 2022.

The Kirby G. Smith Law Firm, LLC

s/Kirby G. Smith  
Kirby G. Smith  
Georgia Bar No. 250119  
*Attorney for Plaintiff*

4488 North Shallowford Road  
Suite 105  
Atlanta, GA 30338  
T: (844) 454-7529  
F: (877) 352-6253  
[kgs@kirbygsmith.com](mailto:kgs@kirbygsmith.com)



100% Recycled fiber  
80% Post-Consumer

Extremely Urgent



Visit [UPS.com](https://www.ups.com)  
Apply shipping documents on this side.

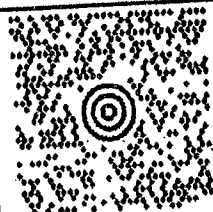
This envelope is for use with the folk

Use from shipping

MIAMI FL 33128  
ATTN: CLERK'S OFFICE  
400 N MIAMI AVE  
P: RED  
S: MRED  
334-3333  
1759  
1202695X033746  
PLM1AUBDCLL  
DEC 16 07:13:56 2022  
US 3310  
DMMED  
HIP 22.9.3  
2P4505

KIRBY SMITH  
8444547529  
THE KIRBY G. SMITH LAW FIRM  
4488 N SHALLOWFORD RD SUITE 10  
ATLANTA GA 30338  
1 LBS 1 OF 1

SHIP TO:  
U.S. DIST. CT. SOUTHERN DIST. OF FL  
ATTN: CLERK'S OFFICE  
400 N MIAMI AVE  
MIAMI FL 33128



FL 330 6-03



UPS GROUND

TRACKING #: 1Z 025 95X 03 3746 1759



BILLING: 3RD PARTY



XOL 22.12.20

NV49 31.0A 12/2022\*

International shipping by the Convention for the Unimodation of Certain Rules Relating to International Carriage by Air (the "Warsaw Convention"), and/or the Convention on the Contract for the International Carriage of Goods by Road (the "CMR Convention"). These commodities, technology or software were exported from the U.S. in accordance with the Export Administration Regulations. Diversion contrary to U.S. law prohibited.

For  
per  
en  
mi

a this